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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1994

Addendum

CAMBODIA

[18 December 1997]

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I. GENERAL MEASURES OF IMPLEMENTATION

A. Steps taken to bring national laws and policies into line with the provisions of the Convention on the Rights of the Child

1. Before acceding to the Convention on the Rights of the Child, Cambodia already had at its disposal a number of legislative instruments containing provisions relating to the protection of the rights and interests of children, and other instruments have been adopted since.

2. The Labour Act of 1992 lays down the conditions governing the employment of children with a view to preventing their exploitation and preserving their health. Article 173 provides that children of either sex below the age of 16 may not be employed as wage or salary earners, supervisors or apprentices in any enterprise; article 174 provides that labour inspectors may request medical practitioners to examine children aged below 18 years employed in factories and to certify that the work they are doing is not beyond their strength; article 178 provides that women are entitled to 90 days of maternity leave.

3. The Marriage and Family Act of 1989 contains several provisions relating to children (arts. 1, 2, 4, 5, 82-119, 119-122). It provides, inter alia, that parents or guardians are responsible for maintaining their children or wards and bringing them up to become good citizens, patriots, workers and responsible members of society (art. 115).

4. Article 14, paragraph 5, of the law on the judicial system, criminal law and criminal procedure in force in Cambodia during the transitional period of 1993 provides that minors aged below 13 years may not be held in pre-trial detention. Minors aged between 13 and 18 may not be held in pre-trial detention for longer than one month. This period is doubled if the minor is charged with a crime. Article 42, paragraph 3, provides that "anyone who hires, suborns or corrupts a minor with a view to prostitution, or who exploits the prostitution of a minor even with the latter's consent, shall likewise be punished by two to six years' imprisonment". As for article 68, it provides that where the convicted person is a minor, this shall be considered a mitigating circumstance, and also that where an accused person is under age, this shall serve as a statutory excuse.

5. The Criminal Procedure Acts of 1989 and 1993 contain provisions relating specifically to minors (art.28 (1989), arts. 22, 34, 54, 76, 162 and 231 (1993)). These legal provisions are still in force.

6. After acceding to the Convention on the Rights of the Child, Cambodia adopted its Constitution and laws, whose provisions are fully in line with those contained in the Convention:

- Article 48 of the Constitution provides that the State shall guarantee the protection of rights set forth in conventions relating to children, in particular, the right to life, education, protection in wartime and protection from economic or sexual exploitation;

- Article 68 proclaims the right to free and compulsory primary and secondary education in State schools for at least 9 years;

- Article 47 provides that parents shall have the duty to bring up and educate their children to become good citizens;

- Article 73 provides that the State shall provide care for children and mothers by establishing nurseries and assisting women who have many children and are without support.

7. The Youth Rehabilitation Centre, a centre for juvenile delinquents, was established by Royal Decrees of 8 February and 24 October 1994. The Centre is required to accept all young offenders aged between 7 and 17 and to re-educate them to become good citizens and honest, disciplined and respectable members of society.

8. The Royal Government's declared political line of October 1993 attaches great importance to educating children and protecting the health of mothers and infants. This policy gives children the hope of seeing the development of their rights in all spheres. The Royal Government is unceasingly concerned with all problems relating to children, whom it regards as the pillars of the nation - the nation's "bamboo shoots", the coming generation.

9. In the sphere of health, the Royal Government has taken steps to combat various diseases, including dengue and poliomyelitis, by promoting the campaign of vaccination against the "six diseases". The State assumes responsibility for the health of orphan children living in reception centres.

10. In the sphere of education, the Royal Government is combating illiteracy by encouraging children from the age of 6, particularly those in remote areas, to attend school. The educational system has been reformed with a view to developing children's ability to continue their technical and vocational studies.

11. In the social sphere, the Royal Government has adopted a policy of protecting children in difficulties, e.g. by providing protection from exploitation at work and from all violations of the rights of the child. Centres have been established in the provinces and in cities to provide shelter for orphans who are without support. Vocational training centres have also been established with the assistance of humanitarian agencies.

B. Machinery for coordinating action on behalf of children and for monitoring the implementation of the Convention

12. By a subsidiary decree of 20 November 1995, the Royal Government established the Cambodian National Council for Children (CNCE), which is entrusted with the task of coordinating the implementation, consideration and evaluation of all policies and programmes relating to the life, development and protection of Cambodian children, the enhancement of their well-being and their participation in the life of Cambodian society (art.1). The Council is presided by the Secretary of State for Social Affairs, Labour and Ex-Servicemen and is composed of representatives of 11 ministries, the Council of Ministers and the Cambodian Red Cross (art.2). Representatives of United Nations agencies and of international or local non-governmental organizations can act as observer members and can take part in meetings at the Council's invitation (art.3).

13. CNCE is a national institution called upon to develop and coordinate activities concerning children in Cambodia and to assist the Royal Government in conducting investigations and preparing reports on all matters relating to children, such as the Convention and the National Plan of Action. It is required to conduct investigations and provide information on the needs of Cambodian children to the Royal Government and all relevant institutions and bodies. It is also responsible for establishing relations with the national and international community with a view to exchanging information, experience and constructive ideas aimed at improving the situation of children (art.4). CNCE, which is provided with a secretariat-general (art.6), was officially inaugurated on 20 November 1995 under the high patronage of the two Prime Ministers, who are also its Honorary Presidents.

14. By Decision No.34 of 28 March 1994, the Royal Government set up an Inter-ministerial Committee responsible for the preparation of reports to be submitted to the United Nations under human rights Covenants and Conventions. The Committee has established a sub-committee which prepares the report on the Convention on the Rights of the Child.

15. The Royal Government has set up a Youth Rehabilitation Centre for the administration and re-education of juvenile delinquents between the ages of 7 and 17. The Ministry of Social Affairs, Labour and Ex-Servicemen has a section in charge of assistance to children which is called upon to ensure the protection of children and to improve their living conditions.

16. A Centre for the Protection of Mothers and Infants has been set up under the Ministry of Health. It is responsible for providing protection and care to mothers and infants and for implementing the Government's family planning programme.

17. The Office of the Secretary of State for Women's Affairs has set up a department for the protection of the rights of women and children and a further department for the protection of women and children's health. These two departments are responsible for health education and for the protection of the rights of children.

18. The Ministry of Education, Youth and Sports has established a department of education, youth and sports which plays a most important role in defining goals to be pursued in these areas.

19. In view of the present situation in Cambodia, the national plan of action for children will form an integral part of the socio-economic five-year plan to be presented at the Conference of Donors in Tokyo in April 1996.

20. The dissemination of information concerning the rights of the child by means of television and radio, the press, leaflets, posters and slogans is still limited and cannot be said to have achieved good results.

C. International cooperation

21. In its efforts to promote the welfare of children, the Royal Government has received assistance from international agencies, non-governmental organizations (NGOs) and humanitarian associations. But the needs are very

great. These bodies have been and are continuing to be actively involved in all activities relating to the implementation of the Convention on the Rights of the Child, especially in the social, educational and health spheres.

II. DEFINITION OF THE WORD "CHILD" (Art.1 of the Convention)

22. Until the present, no legal provision giving a general definition of the child and of the age of majority has been adopted in Cambodia. However, several legal texts mention 18 years as the key age. Article 34 of the Constitution stipulates simply that citizens of either sex who are at least eighteen years old have the right to vote and those who are at least twenty-five years old may stand for election.

23. Article 2 of the Marriage and Family Act strictly prohibits early marriage. Article 5 of the same Act sets the minimum marriageable age as 18 for girls and 20 for boys. Article 97 of the same Act provides that "the age of majority shall be 18 years or over". Article 14 of the Contracts Act provides that anyone aged over 18 may conclude a contract.

24. Article 173 of the Labour Act provides that children of either sex below the age of 16 may not be employed as wage or salary earners, supervisors or apprentices in any enterprise. Article 177 specifies that parental consent is required for the employment of children below the age of 18.

25. While the minimum age of criminal responsibility is not specified, the provisions relating to the judicial system, criminal law and criminal procedure in force during the transitional period, which are still valid inasmuch as they do not run contrary to the Constitution and have not been replaced by new provisions (hereinafter referred to as the "Transitional Criminal Law"), provide in their article 14 that minors aged below 12 years may not be held in pre-trial detention. Minors aged between 13 and 18 may not be held in pre-trial detention for longer than one month. Article 68, paragraph 2 of the same law provides that "where the accused person is less than 18 years of age, the penalties specified in the preceding articles shall be halved".

26. Generally speaking, the above-mentioned legal provisions are strictly applied. Recruitment of civil servants and of manual and non-manual workers takes place in accordance with the age regulations. The work-forces at enterprises, factories and building sites are regularly checked with a view to protecting the rights and interests of children.

27. However, the consequences of the war which engulfed our country during the past two decades are very serious and stand in the way of the strict implementation of laws on the protection of the rights of the child. Because of poverty and unemployment, and because many fathers are old and many mothers widowed, most Cambodian children engage in unsuitable work and abandon their studies. Early marriages are widespread in the countryside. The Royal Government is aware of this situation and has done its utmost to remedy it. It is counting on foreign aid and foreign capital investments to redress the economy and to reconstruct and develop the national infrastructure, the only lever that can

raise the living standard of the nation as a whole and of children in particular.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

28. So far as the legal context is concerned, the Constitution provides as follows:

> "Art. 31: Citizens shall be equal before the law without distinction on grounds of race, colour, sex, language, religion, political opinion, national origin and social, property or other status.
>
> "Art. 35: Citizens of either sex shall have the right to participate actively in the political, economic, social and cultural life of the country."

The Marriage and Family Act provides as follows:

> "Art. 104: Children born out of wedlock who have been recognized shall have the same duties and the same rights as legitimate children.
>
> "Art. 117: A son and a daughter shall have equal rights and duties within the family."

29. So far as implementation is concerned, the Royal Government promotes the welfare of children and mothers throughout the country. Pursuant to its rural development programme, the Royal Government has built hospitals and schools in towns and the countryside, in particular in regions inhabited by ethnic minorities, without distinction as to race, colour, language or belief. Furthermore, it offers other ethnic groups extensive opportunities to promote their culture by authorizing them to open Chinese schools, build Islamic mosques and celebrate non-Buddhist religious rites.

30. The economic recovery which has followed the civil war has revealed that, in terms of education, town children are well ahead of those living in the countryside. This difference is due to the slowness of rural development, lack of transport and, in particular, to the poorly organized system of disseminating information. Moreover, sexual prejudice still survives in certain families, where men behave as if they owned the women and where girls practically do not have the right to leave the house. In order to resolve these problems, the Royal Government is endeavouring, with the resources at its disposal combined with assistance from foreign organizations, to continue developing the countryside by multiplying the number of schools and organizing a system for the dissemination of information concerning citizens' rights in general and children's rights in particular.

B. Best interests of the child (art. 3)

Legal context

31. The Constitution provides as follows:

"Art. 68: The State shall provide all citizens with primary and secondary education in State schools free of charge.

"Art. 72: (…)The State shall establish infirmaries and maternity clinics in remote areas.

"Art.73: The State shall provide care for infants and mothers. It shall establish maternity clinics and nurseries and shall assist women who have many children and are without support."

A Centre for the rehabilitation of juvenile delinquents was established by Royal Decrees No. 294 of 8 February and No.1094 of 24 October 1994. The Labour Act (arts. 174 to 176) requires the heads of industrial establishments to give particular consideration to children, to keep recruitment records concerning all minors below the age of 18, and to monitor the state of their health. The Transitional Criminal Law provides that "… Minors aged less than 13 years may not be held in pre-trial detention. Minors aged between 13 and 18 years may not be held in pre-trial detention for longer than one month". The Marriage and Family Act provides in its article 73 that, in the interests of the children, decisions relating to custody must be taken with the consent of both parents. The Cambodian National Council for Children was established on 20 November 1995.

Implementation

32. The State promotes the best interests of the child and the welfare of children chiefly by instituting and disseminating by all available means programmes designed to make parents and guardians aware of their duties in connection with the education, maintenance and protection of children. However, the poverty and ignorance of some families are reflected in the children's welfare and education. The best interests of the child are not a primary consideration for the majority of parents and guardians. And the State, too, has been unable, for lack of means, to cope with all problems arising in connection with child vagrants living on city pavements. The Royal Government is closely cooperating with UNICEF and the Office of the United Nations High Commissioner for Human Rights in training officials on the subject of the rights of the child with a view to enabling them to transmit their knowledge to the population at large.

C. Right to life, survival and development (art.6)

Legal context

33. The Constitution provides as follows:

"Art. 32: All Cambodian citizens shall have the right to life (…).

"Art. 48: The State shall guarantee and protect the rights of children as set forth in the Convention on the Rights of the Child, in particular the right to life (…).

The Marriage and Family Act provides in its art.74 that divorced fathers or mothers must contribute towards the maintenance and education of their children.

Implementation

34. The Royal Government's health care programme attaches special importance to the protection of mothers and infants. Preventive vaccination against six children's diseases is carried out by the permanent vaccination units of infirmaries and hospitals in all towns and rural areas of the Kingdom, except in unsafe areas, free of charge on "Preventive Vaccination Day" and on all working days. Notwithstanding these efforts, the infant mortality rate remains high. According to UNICEF it stands at 115 per thousand and the mortality rate for children under 5 at 181 per thousand.

D. Respect of the views of the child (art.12)

Legal context

35. The Constitution (art. 47) provides that citizens shall be free to express their views.

Implementation

36. In practice, children express their views in class by answering questions asked by the teacher, at meetings, and through their drawings and stories. Where the parents are divorced, the judge always asks the children which of the parents they want to live with; he may, however, disregard their views in the light of their best interests.

37. We have a radio and television programme entitled "Children's Tribune" on which children may freely express their views. In particular, children are allowed to state their views at seminars on the rights of the child. Nevertheless, children cannot exercise this right fully because custom does not allow them to challenge decisions taken by adults or to be present at discussions between adults. Some school-teachers and other adults will not listen to children's views simply because of their age.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art.7)

Legal context

38. The Constitution provides as follows:

"Art. 33: Cambodian citizens cannot be deprived of their nationality (…). The acquisition of Cambodian nationality shall be determined by law.

"Art. 47: Parents have the duty to maintain their children and to bring them up to become good citizens."

The Marriage and Family Act in its articles 82 to 114 deals with the rights of the child (whether legitimate, adopted or born out of wedlock) to have a name, to seek to establish the identity of the father and mother, and to be maintained by the parents.

Implementation

39. As a general rule, when a child is born in Cambodia the parents must declare the birth to a registry clerk who records, in particular, the child's surname, first name and date and place of birth. Registering the birth of a child is not a problem where the parents are employed by the State and are therefore entitled to a State subsidy for each dependent child. But there are many parents who do not bother to register a birth because the omission is not punishable.

40. Refugee children born in Cambodian territory are not yet entitled to Cambodian nationality. This problem is dealt with in the draft Nationality Act currently in process of consideration and adoption by the National Assembly.

41. Adopted children bear the name of their adopted father (art.114 of the Marriage and Family Act).

42. A child born out of wedlock bears the family name of the father or mother by whom he or she has been recognized. If both the father and the mother have recognized the child, the child must bear the family name of the father (article 103 of the Marriage and Family Act).

43. However, in remote and unsafe areas births are hardly ever registered owing either to the parents' ignorance or to their lack of means.

44. A draft Nationality Act has been prepared in accordance with the rules of international law. The Minister of the Interior has invited local authorities, in particular those of rural communes and urban districts, to explain to the population the importance of declaring and registering births.

B. Preservation of identity (art.8)

Legal context

45. Article 33 of the Constitution provides that Cambodian citizens cannot be deprived of their nationality, exiled or extradited except where an agreement on reciprocity exists.

Implementation

46. Although no law on nationality or on the protection of identity has as yet been enacted, in practice the Royal Government, on the basis of State Council decision No.153 of 28 June 1980, protects the identity of citizens, i.e. their name, national origin, nationality, sex, religion and links of kinship as recorded in family documents which are still valid. The issuance of new

documents of this kind in unsafe areas is proving difficult because many families have changed their domicile or have been separated.

C. Freedom of expression (art.13)

Legal context

47. Article 41 of the Constitution provides that Cambodian citizens shall enjoy freedom of expression, press, publication and assembly. Article 28 of the Transitional Law deals with freedom of political opinion.

Implementation

48. Children have the right to receive information of various kinds from the family, society, the school and the public information system through educational training courses designed to turn them into good citizens. Parallel with the right to receive information, Cambodian children also enjoy the right to express their views through artistic performances and art work and at meetings.

49. The Royal Government has not adopted any measure which prohibits children from exercising the right to express their views. Nevertheless, children cannot fully exercise this right for the following reasons:

- In Cambodian society, parents or guardians are habitually heavy-handed and do not allow children to talk a great deal. Because of such oppression, children lack courage, initiative and determination in exercising their rights;

- Generally speaking, the population's standard of living is low;

- Books and other teaching materials are in short supply, which makes it difficult for children to look things up or to acquire up-to-date knowledge;

- The education system is not very efficient;

- In remote areas there is no social security and no system for disseminating information.

50. The implementation of the Royal Government's political regime of liberal multi-party democracy is advancing towards guaranteeing the protection of citizens' rights and, in particular, of the child's right of expression. But technical assistance from national and international organizations is needed in order to overcome the obstacles listed above.

51. The Royal Government has encouraged sports competitions, introduced scouting in most schools and ordered the inclusion of a questions-and-answers programme on radio and television designed to help in teaching children to exercise their right to freedom of expression.

D. Access to appropriate information (art.17)

Legal context

52. Art.41 of the Constitution provides that Cambodian citizens shall enjoy freedom of opinion, press, publication and assembly. At present Cambodia does not have a law which denies children access to films of a violent or obscene nature. The Press Act prohibits the publication of obscene articles or pictures. By its Letter No. 666/94, the Ministry of Information has instructed all newspaper editors not to publish obscene matter. The Ministry of Culture has adopted a decision prohibiting the showing of all films of an obscene nature.

Implementation

53. Since 1993, the Royal Government, formed as a result of free elections held under the supervision of the United Nations, has endeavoured to the best of its ability and with the assistance of international and non-governmental organizations to restore an information system designed to promote the spiritual and intellectual welfare of children. To this end, the children's television programme also broadcasts cartoons, which are a most effective means not only of entertainment but also of education in that they teach children to distinguish good from evil, to entertain fraternal feelings and to help those in danger. The television programme also encourages children to express their views by telling stories and answering questions. The radio programme also broadcasts information about the life and education of children.

54. Children also receive social and cultural information through school lessons on history, ethics and ecology. In school libraries and the national library there are picture books which illustrate social life in Cambodia and abroad. Many stories have been translated from Russian.

55. International organizations and NGOs, especially UNICEF, have been very generous in providing books and exercise books for Cambodian children.

56. However, despite the Royal Government's goodwill and determination, there are still many shortcomings. The "Children's Tribune" programme on State radio and television does not reach children in all parts of the country. Newspapers show no interest in children and do not devote a single page to their problems. Books for the entertainment and education of children are few and their distribution is by no means generalised.

57. At the same time, owing to lack of supervision, some children watch films unsuitable for their age which show obscene or violent scenes or murders.

58. Children in remote areas have not benefited from the new programmes owing to lack of funds.

59. The Ministry of Education, Youth and Sports is promoting the publication of books and pictures intended for children.

E. Freedom of thought, conscience and religion (art.14)

Legal context

60. The 1993 Constitution provides as follows:

> "Art. 31: Cambodian citizens shall be equal before the law and shall enjoy the same freedoms and have the same duties irrespective of their race, colour, sex, religion, political opinion, national origin or social, wealth or other status.
>
> "Art. 43: Cambodian citizens of either sex shall have the full right to freedom of religious belief. The exercise of religious freedom and the practice of different forms of worship shall be guaranteed by the State provided they do not infringe other religions or public order and security."

Implementation

61. No law that restricts the freedom of thought, conscience or religion of children has been enacted in Cambodia, in particular since its accession to the Convention on the Rights of the Child in 1992.

Implementation

62. The State religion is Buddhism. Ninety-nine per cent of Cambodian citizens are Buddhists. There are 3 326 pagodas and 39 342 Buddhist priests.

63. Mention may also be made of other religions, viz.:

- Islam: 330 mosques, 321 753 followers;
- Christian (Roman Catholics): 9 churches, 1 400 followers;
- Christian (Protestants): 115 churches, 13 014 followers;
- Caodai: one church, 106 followers;
- Various Chinese religions: 32 churches, 122 000 followers.

64. Religious instruction is not yet included in the State educational programme. A certain number of children receive religious instruction in the pagodas and become priests.

65. In addition to home upbringing, parents send their children to school so that they may learn to be good citizens endowed with national awareness, a willing attitude and a clear and open mind.

66. Together with the parents, the Royal Government is encouraging children, particularly those who belong to ethnic minorities, to attend school and to practise their religion, e.g. by opening Chinese-language schools and building Islamic and other places of worship.

67. However, the influence of custom is depriving children of the right to think for themselves. Many parents uphold the ancestral precept that "children must respect their elders" and shape their children's thoughts to resemble their own. Different ways of thinking, however progressive or advanced, are rejected. The Royal Government is trying to make parents understand that children are entitled to think for themselves. As for the propagation of religious faith, it enjoys the Royal Government's constant support provided that no coercion or religious discrimination is involved.

F. Freedom of association and of peaceful assembly (art. 15)

Legal context

68. The Constitution provides as follows:

> "Art. 41: Cambodian citizens shall enjoy freedom of opinion, press, publication and assembly.
>
> "Art. 42: Cambodian citizens shall have the right to establish associations and political parties.

Mention should also be made of Ministry of the Interior Directive No.474 of 2 July 1994 relating to the establishment of associations.

Implementation

69. No children's associations exist as yet and the idea of establishing one has not been raised to date. However, the Ministry of Education, Youth and Sports has set up a system of administrations of children's affairs in all provinces. The main tasks of the Administrative Council for Children are to ensure that children are educated and trained to become good citizens. At school, children are grouped in class committees. These committees are meant to act as intermediaries between the teacher and the pupils with a view to serving the best interests of the latter.

70. Like other countries, Cambodia has adopted 1 June as the Day of the Child. On that date, children carrying posters and banners parade the streets in large numbers in order to show that they form part of society.

71. But since Cambodian children are dependent on their families and schools, the idea that they could set up associations of their own is unrealistic. All children's groupings have to be administered and directed by adults. Besides, the great majority of children do not yet understand their rights.

G. Protection of privacy (art. 16)

Legal context

72. The Constitution provides as follows:

> "Art. 38: The State shall guarantee the inviolability of the individual. The law shall protect the life, honour and dignity of citizens.

"Art. 40: Inviolability of the home and secrecy of correspondence by letter, telegram, telex, fax or telephone shall be guaranteed."

73. The Transitional Criminal Law provides as follows:

"Art. 63: Defamatory acts and insults

"1. Any allegation or imputation of bad faith in respect of a specific act which infringes the honour or reputation of the private individual to whom the act is attributed shall be considered defamatory. The direct or indirect dissemination of such allegations or imputations shall be punishable even if the individual concerned is not expressly named but can readily be identified from the terms of the speeches, threats, written or printed matter, banners or posters, or audio-visual broadcasts in question. Any allegation which the author, journalist, editor, publisher or programme producer knows to be false and which he disseminates, publishes, writes or broadcasts with the object of harming a public personality to whom the act in question is attributed shall be considered defamatory.

"2. Any offensive or contemptuous term or piece of invective which does not relate to a specific act shall be considered an insult.

"3. A defamatory act or insult committed by any of the means referred to in article 59 shall be punished by eight days' to one year's imprisonment and by a fine of 1 000 000 to 10 000 000 riels, or by only one of those penalties.

"4. In the event of conviction on the ground of one of the acts referred to in the preceding paragraph, the court may also order that its ruling be posted in places it shall specify and that the costs thereof by paid by the convicted person or persons up to a maximum of 10 000 000 riels. Proceedings on the ground of the offences covered by this article may also be instituted by any association established in accordance with the rules defined by the Supreme National Council, which may bring a suit for damages before the competent State prosecutor.

"5. In all cases, the employer, printer, publishing company or broadcasting company shall be jointly and severally responsible for the payment of any damages that may be awarded to the victim or victims.

"Art. 57: Violation of individual rights

"Any public servant, including members of the police and the armed forces, who deliberately violates the rights to inviolability of person and of the home protected by this Act shall by punished by one to five years' imprisonment.

"Art. 20: House searches

"1. House searches may be conducted by the police in cases of flagrante delicto.

"2. Such house searches must be conducted in the presence of the suspect and of two witnesses, if possible the suspect's neighbours or landlord.

"3. Where flagrante delicto does not apply, a house search must be authorized by one of the judges of the court trying the case or by the prosecutor. It may be conducted only between 6 a.m. and 6 p.m. It shall take place in the presence of the suspect and two witnesses forming part of his/her family. Evidence obtained in violation of this article shall not be admissible at the trial."

Implementation

74. The Royal Government regards children as "the shoots that will replace the bamboo tree", that is to say as the coming generation, the pillars of society, a privileged category of persons. In addition to recognizing the right of the child to education, establishing an institution for the protection of mothers and children and assisting children left without support, the State also provides for the protection of children's legitimate individual rights.

75. This does not mean, however, that all children enjoy those rights. In some families and in some parts of the country, especially in the unsafe areas, children are still at risk. Some children suffer mental and physical abuse at the hands of their parents or teachers, etc. No law strictly prohibiting corporal punishment of children has been enacted to date. Furthermore, certain depraved acts involving children have been exploited by many newspapers, which have openly published the child's picture. Fortunately there are other papers which are more mindful of the child's future and which refrain from publishing such material unless the child's face has been disguised.

76. So far as medical examinations are concerned, the Ministry of Health forbids the examining physician to communicate information concerning the child's health to persons other than the parents or guardians.

77. Court cases involving minors are always conducted in camera.

H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art.37)

Legal context

78. Cambodia does not as yet have a law expressly forbidding parents to strike their children. Cambodia has signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

79. The Constitution provides as follows:

"Art. 32: Everyone shall have the right to life, freedom and personal security.

"Art. 38: All accused persons shall be considered innocent for as long as the court has not passed a final verdict.

"Art. 48: The State shall guarantee and protect the rights of the child as defined in the Convention on the Rights of the Child, such as the right to life, the right to education, the right to protection in wartime and protection from economic or sexual exploitation. The State shall protect children from work that is liable to interfere with their upbringing and studies or to injure their health or welfare."

80. The Transitional Criminal Law provides as follows:

"Art.12: Treatment of detainees

"1. No detainee shall be subjected to cruel, inhuman or degrading punishment or treatment, beating or torture. All detainees must receive appropriate medical care. A prisoner, whether in pre-trial detention or already convicted, may not be held incommunicado. The family of a detainee or prisoner may in no case suffer harassment on account of his/her actions.

"2. The conditions of arrest and detention must meet the Standard Minimum Rules for the Treatment of Prisoners and other principles governing the protection of all persons subjected to any form of detention or imprisonment adopted by the United Nations.

"Art. 13: Arrest and detention

"1. No one may be detained for longer than 48 hours without appearing before a judge upon application by the prosecutor. If this time limit cannot be observed by reason of transport difficulties in the area, it may be extended to the extent strictly necessary in order to bring the detained person before the judge by the most rapid means available.

"2. The prosecutor shall apply to the judge to charge and, where necessary, to detain the suspect on the basis of the police file, and to that end shall draft an indictment setting out the specific facts of the case and providing a legal definition of the offence in the light of this Act.

"3. The judge may then, by a reasoned ruling,

- charge the suspect and decide whether or not he/she should be kept in custody;

- consider that the charges against the suspect are insufficient and order his/her release; or

- decide that the investigation should continue without disclosing the name of the suspect.

"4. Within the same maximum time limit of 48 hours after arrest, possibly extended by the length of time required for the suspect's transport as defined in paragraph 1, the file containing the charge must be made available to counsel.

"Art. 31: Murder

"1. Any person who, having premeditated the crime, kills or tries to kill another person, or who organizes an ambush, or who kills or tries to kill another person while committing robbery or rape, shall be held guilty of the crime of murder and shall incur a penalty of ten to twenty years' imprisonment.

"2. Premeditation shall consist in planning to kill a person before committing the act. Ambush shall consist in lying in wait for a person for a certain length of time in order to commit acts of violence against that person.

"Art. 41: Deliberate wounding

"Any person who deliberately inflicts blows which result in wounds entailing permanent disablement or temporary disablement for more than 6 months shall be held guilty of the offence of deliberate wounding and shall incur a penalty of one to five years' imprisonment.

- Where temporary disablement for less than six months is involved, the culprit shall incur a penalty of six months' to one year's imprisonment.

- Where no disablement is involved, the penalty incurred shall be of two months' to one year's imprisonment.

- Where the blows were delivered with a weapon of any kind, the penalty shall be doubled."

[The death penalty has been abolished in Cambodia (art.67 of the Transitional Criminal Law.)]

"Art.68: Mitigating circumstances and exemption on grounds of age

"1. In deciding whether the penalty should be reduced even below the minimum defined in this Act, judges shall take account of mitigating circumstances, and in particular:

- of the young age of the accused;

- of the personal history of the accused where it may have diminished his/her responsibility;

- of the psychological or psychiatric state of the accused as certified by a psychiatrist or psychologist; and

- of the circumstances of the crime or offence which may have made the convicted person's reaction unavoidable.

"2. In the case of all accused persons aged less than 18 years, the penalties specified in the foregoing articles shall be reduced by half,

without prejudice to more favourable provisions that may be found in special regulations adopted by existing administrative structures."

81. The Marriage and Family Act provides in its article 166 that parents may not ill-treat their own children, their step-children, their adopted children or the children of an earlier marriage of their spouse.

Implementation

82. The Royal Government categorically prohibits physical persecution of all individuals, particularly children. Schoolteachers are forbidden to beat their pupils. Despite this, children in unsafe areas and in certain families are still being ill-treated.

83. The Ministry of Justice is actively cooperating with other competent ministries in resolving issues relating to juvenile delinquents, in particular their re-education and reintegration in society.

V. THE FAMILY ENVIRONMENT AND OTHER TYPES OF CARE

84. The war has reduced the country's welfare structure to ashes. Women and children are the main victims.

A. Parental guidance (art. 5)

Legal context

85. The Constitution provides as follows:

"Art. 47: Parents shall have the duty to maintain their children and bring them up to become good citizens."

Implementation

86. According to custom and the Buddhist religion, parents are obliged to maintain and educate their children, to prepare their future and to preserve the honour of the family.

87. Cambodian citizens have always done their best to be good parents. But, according to UNICEF estimates in 1994, some 200 000 children are at risk because their parents' poverty and ignorance prevents them from being properly brought up and educated. Some parents go away to work, leaving their children in the care of grandparents or neighbours. Others make their older children look after the younger ones, or even oblige the older ones to help them in their work. According to Ministry of Planning statistics for 1995, about 20 per cent of Cambodian women are heads of families and one in 237 Cambodian citizens is disabled. These factors seriously handicap the children's chances in life. In certain areas, the inhabitants are obliged to move often for safety reasons and cannot maintain their children properly.

B. Parental responsibility (art.18)

Legal context

88. The Constitution provides as follows:

"Art. 47: Parents have the duty to maintain their children and bring them up to become good citizens.

"Art. 73: The State shall establish nurseries and shall provide assistance to mothers of many children who are without support."

89. The Marriage and Family Act in its article 115 speaks of the responsibility of parents to maintain their children, provide them with a moral upbringing and encourage love of learning, of the fatherland and of work. Articles 104 and 105 deal with equality between legitimate children and those born out of wedlock and with the duty of parents to maintain and educate them. Article 114 provides the same rights and duties in respect of adopted children as of legitimate ones or of children born out of wedlock. Article 68 provides that a husband may not sue for divorce for a year after the wife has given birth. Articles 72 and 75 regulate custody and visiting rights following the parents' divorce.

90. The Labour Act, in its article 165, provides for maternity leave. According to article 177, a child of either sex below 18 years of age who is still dependent on the parents or guardians cannot enter employment without their consent. Articles 178 and 183 stipulate that mothers have the right to nurse their babies during working hours and require enterprises to provide nurseries.

Implementation

91. All women working in the public or private sector are entitled to three months' maternity leave on full pay. They have the right to nurse their babies during working hours and to receive social assistance on confinement. Children of deceased public servants continue to receive monthly allowances.

92. With a view to assisting needy children, the Royal Government and some NGOs have created favourable conditions for families to improve their standard of living. Other organizations have helped children by providing them with vocational training.

93. A programme of parental education has been launched on radio and television and in the form of brochures with the object of encouraging parents to maintain their children and to protect their interests. Since the average citizen's educational level is not very high, the hoped-for results are still far from having been achieved and there is need for continuing efforts in this direction.

94. The Ministry of Health has drawn up a political programme on family planning with the object of lowering the rate of maternal and infant mortality and raising the standard of living of families. Implementation of this programme could bring the birth rate down to 2.8 per cent.

95. The Royal Government and the relevant organizations are particularly concerned by the lack of social assistance for poor and handicapped children. They are preparing a short-term plan for 1995 and a long-term plan for 1996-2000 in order to fill this lacuna.

C. Separation of children from their parents (art. 9)

Legal context

96. The Marriage and Family Act, in its article 27, deals with the rights and duties of divorced parents in respect of their children. Articles 72 and 73 provide that the judge who pronounces the divorce must decide whether the father or mother shall enjoy parental authority and shall have the custody of the child or children, and must also decide upon the children's relations with their parents. The question of custody is decided in the best interests of the children with the consent of the spouses. Infants at the breast are, however, generally entrusted to the mother. In the event of disagreement between the spouses, the court must decide. Article 75 provides that the spouse who does not have custody shall have visiting rights. Custody may be withdrawn where the interests of the children are at stake. Article 119 provides that in cases where the parents neglect their children's education, oblige them to commit anti-social acts, ill-treat them or give them a bad example by behaving in an immoral manner, parental authority may be entrusted to an organization or a relative.

97. By letter No.476 of 9 September 1994, the Minister of Justice has instructed all prisons to place all infants in nurseries.

Implementation

98. Divorce is more common in towns than in the provinces. In Phnom Penh, 792 divorce cases came before the courts in 1994 and 2 532 others are pending, whereas according to statistics supplied by the Ministry of Justice there were only 106 such cases in eight provinces.

99. Generally, when the parents divorce, many children prefer to stay with their mother, who often prevents them from having any contact with their father. If the father or mother re-marries, the grandparents play an important role in looking after the children. Before taking any decision, the court always asks the children for their views as to which of the parents they want to live with. But above all the court has to consider the children's best interests.

100. No cases of separation of children who suffer persecution in their families have occurred to date, as the competent authorities have not yet received any specific directives.

101. At present there are still some children living in prison with their mothers because the mother does not want to be separated from them. The Ministry of Social Welfare is considering what measures should be taken to protect the children's best interests. A circular dated 22 May 1995 on communication with women detainees and convicts imprisoned together with their children stipulates that the social services must contact the prison authorities and collaborate with them in ensuring that children older than 6 months leave the prison. The mother's consent must be obtained when appointing the person to whom the child

is to be entrusted with the prison authorities' permission. The social workers must facilitate regular visits to the mother or take the children to visit the mother themselves in accordance with the prison rules, while shielding the children from any sordid sight.

D. Family reunification (art.10)

Legal context

102. The Immigration Act has already been adopted by the National Assembly but has not yet been put into practice. There is as yet no legal provision for assistance to children in rejoining their families abroad.

Implementation

103. The State authorises children to join their families abroad. The State participates actively in the "family tracing programme" on behalf of children who have been repatriated or displaced. Between 1989 and 1992 the International Committee of the Red Cross helped 3 600 separated families to reunite both inside and outside Cambodia.

E. Recovery of maintenance for the child (art.27, para.4)

Legal context

104. The Marriage and Family Act in its article 27 provides that the rights and duties of parents and children remain unchanged in the event of the parents' divorce. Articles 35, 39 and 74 mention the question of child maintenance and of the child's relations with the parents in the event of divorce.

Implementation

105. When the parents are pronounced legally divorced, the children receive maintenance in accordance with the court's decision. In rural areas, however, divorce is simply recognized by the village or commune chief. In most cases mothers look after the children alone with help from the family. The fathers visit from time to time bringing maintenance money with them.

106. There are no legal provisions expressly obliging fathers or mothers to contribute towards the maintenance of children not in their custody, particularly those residing abroad.

F. Children deprived of their family environment (art.20)

Legal context

107. Article 48 of the Constitution deals with the protection of the right to life of children in wartime. Article 119 of the Marriage and Family Act provides for the separation of children from parents found guilty of misconduct and for the children's placement in a charitable institution or with other persons. Council of Ministers Decision No.79 dated 23 June 1987 lays down the political line to be followed in connection with orphans and vagrants housed in State reception centres.

Implementation

108. Since 1979, the State has been receiving and taking care of orphans left without support. According to 1980 statistics, there were then 5 540 children living in State reception centres. This number was subsequently reduced because some of the children were reunited with their families while others grew up and left the centres to earn a living elsewhere.

109. At the end of 1994 there were only 2 041 children living in State reception centres. Six NGOs have contributed towards the maintenance and education of 668 children in their respective centres. These children are orphans, children of poor parents or vagrants. In 1991, UNICEF in cooperation with the local authorities compiled a register of 58 498 children in 11 provinces who had lost one or both of their parents.

110. According to UNICEF statistics,there are between 5 000 and 10 000 vagrant children in the capital and certain provinces. This numbers varies depending on the economic situation and the season. Social assistance to child vagrants and orphans is not yet adequate. It is conditioned by the possibilities and capacities of the Government and the donor organizations. The relevant ministries and most of the organizations are at present elaborating a programme and plan of action designed to reduce the number of child vagrants.

111. Some children leave their families and go to live with relatives or in the pagodas. Others hire themselves out as domestic servants. There are no special social services and no specific programme for children. In order to improve the living conditions of children housed in State reception centres, the Ministry of Social Welfare has set up a committee with the participation of NGO representatives. But the results are not satisfactory and a reorganization is under study.

112. The Ministry of Social Welfare, in cooperation with NGOs, has been providing shelter, maintenance and education to child vagrants. But the majority of these children are recalcitrant to such measures. The Ministry has also asked the Royal Government to agree in principle to measures to ensure that young people living in State reception centres who have grown up and are married leave the centres and find their own accommodation elsewhere. For its part, the Office of the Secretary of State for Women's Affairs is conducting a campaign designed to persuade parents to take care of their children so that they do no become vagrants. But none of these initiatives has yielded satisfactory results owing to lack of sufficient financial means.

G. Adoption (art.21)

Legal context

113. Articles 108 to 114 of the Marriage and Family Act deal with the subject of adoption by Cambodian or foreign citizens. Adoptive parents must be over 25 and adopted children must be less than 8 years old; the age difference between them must be at least 20 years. Only two children may be adopted. The consent of the parents or guardians is required. In the case of children who have been abandoned, consent must be obtained from the communal authorities. The adoption contract is certified by the communal authorities and can be revoked at the

request of the adopted children or of any other individual concerned. Article 7 of Council of Ministers Decision of 23 June 1991 specifies the conditions for adoption by Cambodian citizens. Council of Ministers Letter No. 549 dated 25 March 1991 specifies the conditions for adoption by foreign citizens. Besides the conditions as to age referred to above, foreign adoptive parents must furnish a medical certificate attesting to their inability to procreate, an attestation of their financial situation, a document showing that they do not have a police record, and an undertaking to exchange information about the adopted child or children.

Implementation

114. Cambodians rarely adopt children because they already have large families or several dependants. Some adoptive parents treat their adopted children as their own, but others force them to work without taking account of their interests. In certain cases, the adoption laws are not respected; no adoption agreement is signed, the biological parents' consent is not obtained and the adoptive parents enter the children in the register of births and in the family records as their own.

115. Adoption of orphans by Cambodians or foreigners must respect the principles established by the State. Between 1987 and 1994, 163 orphans were adopted by foreigners and left the country with their adoptive parents. Most of the foreign adoptive parents have sent letters and photographs showing the adopted children's living conditions to the Reception Centre. In 1992, two representatives of the Ministry of Social Welfare were sent on an information tour of American families which had adopted 50 children.

116. Inside Cambodia, the situation of adopted children is investigated from time to time in the towns and most of the adopted children have been presented to the Reception Centres.

117. Adoption in Cambodia is not yet well organized. In particular, internal domestic procedures are not clear and the system of information on adoptive families and adopted children is not efficient. The State is considering the advisability of amending the law and formalities pertaining to adoption.

H. Illicit transfer and non-return of children abroad (art.11)

118. Citizens are authorized to leave the country. But a shady practice has developed involving clandestine transfers of children across the borders. No measures have been adopted as yet to deal expressly with the problem of children of mixed parentage, e.g. with a foreign father and a Cambodian mother, leaving the country without the joint consent of both parents.

119. The Ministry of Justice has prepared a draft new Civil Code which deals, inter alia, with the problem of custody of children of mixed marriages in the event of the parents' divorce.

I. Violence and neglect of children - physical and psychological recovery and social reintegration (arts. 19 and 39)

Legal context

120. Article 48 of the Constitution provides as follows:

> "The State shall protect the rights of the child as set forth in the Convention on the Rights of the Child, in particular, the right to life, education, protection in wartime and protection from economic or sexual exploitation. The State shall protect children from all forms of work liable to interfere with their education or prove injurious to their health and well-being."

121. Articles 2-4 and 23 of the Marriage and Family Act prohibit early marriage, forced marriage and all obstacles to the freedom of marriage. Neither of the parties to a marriage may impose his or her will upon the other. No one may force any person to marry or prevent a marriage that meets all the legal conditions. Forced marriage shall be null and void. Articles 119 and 120 provide for the withdrawal of parental authority from fathers or mothers for failure to fulfil their duties with regard to their children's upbringing, abuse of authority, ill-treatment of their children, or misconduct liable to influence their children. Such withdrawal shall be decided upon at the request of a State body, a social welfare institution, the King's Prosecutor or a relative of the father or mother.

122. In general, no complaint has ever been brought in Cambodia by children against their parents on grounds of ill-treatment, although charges have been brought by close parents or local authorities following the victims' death. But such cases are very rare and quite involuntary.

123. The Transitional Criminal Law provides in its article 42 that any person who indecently assaults another person of either sex by fondling or caressing that person or by performing any act of a sexual nature, but without penetration, shall be considered guilty of indecent assault and shall incur a penalty of one to three years' imprisonment. If the assault is accompanied by fraud, violence or threats, if the victim is below 16 years of age or if the assault is committed by any person having authority over the victim, the term of imprisonment shall be doubled. Anyone who recruits, lures or otherwise involves a minor in prostitution or who exploits the prostitution of a minor, even with the latter's consent, is likewise punishable by two to six years' imprisonment.

Implementation

124. In Cambodia, the practice of striking children by way of family chastisement is widespread. But if the ill-treatment is excessive, the local authorities or neighbours have been known to intervene and in some cases the children are entrusted to their grandparents or transferred to the Centre for Assistance to Children.

125. About a third of school-age children have not completed their primary schooling owing to lack of encouragement or supervision by their parents.

Neglect of children's well-being is at the root of homelessness, lethal diseases, etc.

126. Most of these children hire themselves out as domestic servants or become involved in prostitution, or else stay at home and help their parents to earn a living. A UNICEF document shows that 36% of Cambodian children are vagrants and 48% work for their families.

127. The State in close cooperation with the NGOs is helping vagrant children by provisionally housing them in reception centres where they receive schooling or are returned to their families. Some NGOs have sent representatives to conduct inquiries among parents as to their children's needs and try to persuade them to stop ill-treating their children.

128. The laws, measures and programmes of assistance to children at present in force having proved ineffective, the State and the NGOs are endeavouring to improve them so as to combat trafficking in children. For its part, ECPAT (End Child Prostitution in Asian Tourism) is currently conducting a multi-faceted campaign aimed at eliminating child prostitution.

J. Periodic review of placement measures (art. 25)

129. The situation of children living in reception centres operated by the State and NGOs has been closely monitored by reports submitted to the Ministry of Social Welfare. The centres are regularly visited by NGO representatives and by responsible officials at the provincial level, but visits by Ministry representatives have been irregular owing to lack of means. Reports are also submitted irregularly because the communication system is poorly organized and the possibilities limited. This depends on the situation and on safety conditions in the country or a particular region.

130. The State does not have a programme for placing children in difficulties in the care of families offering acceptable and humane conditions. However, some NGOs have already instituted such a programme and are closely monitoring its execution.

131. The Ministry of Social Welfare is strengthening the system of monitoring the treatment provided to children living in various reception centres and to adopted children both inside and outside the country.

VI. BASIC HEALTH AND WELFARE SERVICES

A. Survival and development (art.6, para. 2)

Legal context

132. The Constitution provides as follows:

> "Art. 72: The health of the people shall be guaranteed. The State shall give full consideration to the prevention and treatment of diseases. The poor shall receive free medical care in State hospitals, infirmaries and

maternity wards. The State shall establish infirmaries and maternity wards even in rural areas."

133. By its national health policy, the Royal Government recognizes the existence of the system of health protection in the public and private sectors. It takes care of the people's health by dispensing preventive education and by providing medical care thanks to the establishment of infirmaries and maternity wards even in rural areas. It is particularly concerned with the welfare of mothers and infants and with reducing the infant mortality rate.

Implementation

134. In recognizing the right of the child to survival and development, the State has constantly encouraged activities relating to the health of mothers and children, of which the activities of the system of protection of the health of mothers and infants, including the administration of the relevant health programme, form part.

135. At the provincial level there exist 26 units for mothers and infants and for the treatment of children's diseases. At the district level there are 164 maternity and baby care units. These district units for the protection of mothers and infants also deal with potential risks during pregnancy and confinement, provide education in matters of hygiene and nutrition, offer ante-natal consultations, family planning advice and medical care for children below the age of 5 and conduct preventive vaccination programmes and check-ups of the children's development. At commune level we have 1 267 infirmaries which assist in implementing the primary health care programme and other programmes relating to the health of mothers and children and of the population in general.

136. Parallel with this, the mother and child health protection system has actively participated in the campaign of direct dissemination of information about the role played by domestic hygiene education in preventing children's diseases, the most important among which are cholera, dengue, malaria, tuberculosis and AIDS (Government report for 1994).

137. Despite the efforts made, and owing to our population's low educational level, the status of health education and application of rules of hygiene in remote areas is still poor and the infant mortality rate remains high. According to UNICEF figures, 117 per thousand of Cambodian children die before reaching the age of 5 and 31% of babies are still-born, while 28% die soon after birth.

138. In order to improve the standard of living and the development of children in the future, the Royal Government, in addition to its socio-economic activities, has embarked upon and is gradually carrying out the following projects:

- Study and analysis of a project to restore the infrastructure;

- Study of a project for the construction, in cooperation with JICA (Japan International Cooperation Agency), of a mother-and-child protection centre and 200-bed maternity hospital at an estimated cost of US$ 14 million;

- Reconstruction and modernisation of the national hospital for children with assistance from World Vision International and of the Kantha Bopha children's hospital with help from the Fondation Khmero-suisse (Cambodia-Switzerland Foundation);

- Continued strengthening of the organization and administration of mother-and-child protection units at all levels;

- Continuation of the national mother-and-child health programme;

- Amendment of procedures relating to the health of mothers and children.

[Source: Ministry of Health (report on activities in the sphere of health, 1994)]

B. Disabled children (art.23)

Legal context

139. Article 74 of the Constitution provides that the State shall assist the disabled and the families of combatants who sacrificed their lives for the nation. The political line adopted by the Royal Government on 29 October 1993 provides for assistance to war victims, widows, orphans and the disabled. Council of Ministers Decision No.18 of 20 December 1990 lays down the principle of rehabilitation, vocational training and employment of disabled persons.

Implementation

140. Because of the prolonged war in Cambodia, the number of disabled children is very great. According to 1994 data there are 122 740 disabled persons, of whom 32 000 are below 18 years of age; 43% of those aged less than 15 have had poliomyelitis, 16% are suffering from a brain disease and 21% are war cripples. There are between 20 000 and 30 000 persons crippled by land mines. Although information relating specifically to children is scant, we estimate that they form the majority of the land mine victims.

141. Because of lack of means and funds, the State has not yet taken any specific steps to resolve the problem of disabled children, e.g. providing them with education or vocational training. Such children can attend State schools if their state of health allows. We appeal to international organizations, and especially to the United Nations, to help children disabled by land mines in Cambodia.

142. To determine the precise number of children who have lost their lives as a result of land mines is difficult because most of them were killed on the spot or died on the way to hospital. Investigations carried out in heavily mined districts at Battambang revealed that 6.7% of child victims of land mines have died and that 90% of them were boys. [Sources: Ministry of Social Welfare and Ex-Servicemen's Affairs (May 1994, American Red Cross, National Rehabilitation Seminar); Analysis of the situation of women and children; Ministry of Health; UNICEF office in Cambodia.]

143. Faced with this situation, the Royal Government in cooperation with NGOs such as Handicap International set up 14 treatment and rehabilitation centres for wounded and disabled persons in Phnom Penh and in the provinces in 1994. It is also cooperating in maintaining and training children without support at the Kien Kleang reception centre for orphans in Phnom Penh.

144. The Royal Government has taken steps to control the land mine hazard by asking the Cambodian Mine Disposal Centre to put up signs drawing attention to the presence of land mines and to use radio, television and posters to explain the meaning of these signs to the population.

C. Health and health care services (art.24)

Legal context

145. Article 73 of the Constitution provides that the State shall provide care for children and mothers. It shall establish nurseries and shall assist mothers of large families who are without support.

146. The national health policy is aimed at:

1. Improving and developing primary health services by strengthening the health system at district level with the participation of communal authorities and religious chiefs;

2. Encouraging healthy nutrition, hygiene and the implementation of the family planning programme with a view to guaranteeing the health and well-being of women and children;

3. Reducing the rate of contagious diseases, particularly tuberculosis, dengue, diarrhoea, diseases of the respiratory tract, venereal diseases and AIDS;

4. Improving hospital services in Phnom Penh and the provinces, guaranteeing first aid in cases of serious illness or accident;

5. Guaranteeing medical standards and health care, upgrading the skills of health personnel through continuous training;

6. Improving the supply and distribution of health equipment and materials in hospitals, dispensaries and infirmaries;

7. Drafting an Act on the administration and quality control of private health services.

Implementation

147. In the interests of guaranteeing and improving the nation's health and of facilitating health care and medical treatment of the population, in particular children, the Royal Government has set up the national health system, which comprises two training schools, nine institutes, a pharmaceutical plant and eight hospitals with a total of 1 866 beds. In the provinces there are 21 provincial hospitals and health centres with 4 090 beds. At the district

level there are 164 hospitals with 3 935 beds. In the communes there are 1 267 infirmaries. In communes without an infirmary there are two or three male nurses, one of whom is permanently on duty.

148. In order to ensure the health of Cambodian children, the Royal Government has adopted a variety of measures with a view to:

- Encouraging preventive vaccination against the six main children's diseases in villages and communes, as shown in the following table:

Year	Number of children	BCG	%	Polio 3rd time	%	DTP 3rd time	%	Rovac	%
1991	337 518	188 324	55	132 948	38	136 042	39	131 191	38
1992	343 411	190 401	56	122 958	36	121 190	35	131 411	38
1993	366 104	207 692	56	130 534	36	129 402	35	132 503	37
1994	380 100	283 558	74	172 336	45	170 274	44	178 745	47

- Organizing a polio prevention programme for children under 5 at Kandal and Phnom Penh;

- Organizing the national preventive vaccination programme for 1994 and celebrating Polio Prevention Day in all provinces of Cambodia in 1995.

149. A project for implementation of the family planning programme in 12 provinces (Kandal, Takeo, Kampong Speu, Prey Veng, Svay Rieng, Kampong Cham, Kampong Chhnang, Kratie, Battambang, Pursat, Kampot and Phnom Penh) is under study.

150. As a result of efforts to educate pregnant women about pregnancy and baby care, 63% of pregnant women (as against 53% in 1993) had a medical check-up in 1994 and the number of pregnant women vaccinated against tetanus rose from 24% in 1993 to 44% in 1994.

151. Between 1993 and 1994, the number of babies who had been medically examined doubled and that of hospital confinements rose by 12%.

152. Midwives are being taught the rules of hygiene they must apply during confinements and are receiving training in evacuating pregnant women in the event of an emergency.

153. A rapid system of information on the occurrence of contagious diseases (e.g. dengue and cholera) has been set up with a view to ensuring prompt medical intervention.

154. AIDS is one of the diseases to which the Royal Government is giving particular attention. It is thought that in Cambodia the disease is spreading mainly through sexual intercourse. Women are particularly at risk because their husbands tend to frequent prostitutes and to maintain multiple sexual relationships. The number of prostitutes has risen steadily since 1991 and,

according to a Ministry of Health inquiry, 38% of all prostitutes are HIV positive. To prevent the spread of AIDS, the Ministry issued Decision No.36 of 11 December 1993 establishing an inter-ministerial commission. Since then, the spread of the disease has been halted as a result of analysing blood obtained from donors, training health personnel at all levels and conducting all kinds of educational campaigns among public officials and the population at large. According to Ministry of Health statistics, there are currently 30 000 HIV-positive persons in the country. A study carried out on a sample of pregnant women in 1995 showed 4% of the sample to be HIV-positive (as against 1% in urban areas of other countries). The first cases of children with AIDS have been recorded. AIDS is a serious risk for street children who engage in prostitution. The Ministry of Health is recommending the use of condoms for AIDS prevention. Treatment measures are not envisaged.

155. Children are receiving advice on buccal and dental care and dental nurses are being trained at the district level. With regard to dental care, we currently we have only one dentist for every 40 000 inhabitants. Goitre due to iodine deficiency is also widespread.

156. Serophtalmia due to vitamin A deficiency is very widespread, especially among children. The Royal Government has now established a commission for the prevention and treatment of this disease (1994 Health Activities Report). Preventive vaccination against the six childhood diseases has developed more rapidly than their treatment. Field investigations have been conducted by health officials (except in certain unsafe areas).

157. In 1994, the Royal Government instituted a clean water policy in rural areas, digging 1 775 wells with assistance from UNICEF. Twenty septic tanks were also installed thanks to assistance from FAO and other organizations (Government Activities Report, 1994). In order to improve the quality of medical care, the Ministry of Health has strengthened the programme of infectious disease control in hospitals; strengthened the training of health personnel at the level of provinces, districts and communes in the treatment of the most widespread diseases; developed the health equipment available at provincial and district hospitals; and strengthened the system of emergency aid at the Calmette and Kossamak hospitals.

International cooperation

158. Before 1994 there were 50 humanitarian and international organizations providing assistance in the field of health. In 1994 their number rose to 82. The Ministry of Health has established central and provincial commissions to coordinate international assistance so as to bring it into line with its policy priorities. A system of registration of international aid is presently being set up with a view to identifying what financial activities have taken place and in what places assistance from international organizations in the sphere of health has been received.

159. The following difficulties are being encountered:

- Strengthening the management system is proving difficult because the staff are poorly paid;

- Building and equipping hospitals in certain areas is proving impossible because of insecurity;

- Private services in rural areas cannot be properly monitored;

- Health and hygiene education among the population is poor and cooperation in this field still leaves much to be desired;

- Combating venereal disease and AIDS is proving difficult, particularly in terms of monitoring the health of prostitutes;

- Preventive vaccination cannot be carried out in unsafe areas;

- Commercial advertising of medicines, cigarettes and alcoholic products is anarchic;

- Medical treatment is falling short of requirements, as also are the numbers of specialists and the buildings and equipment available. Medicines are not being imported quickly enough and means of evacuating the sick are lacking;

- Hospital admission charges are minimal (5 000 riels per day).

International cooperation

160. Most organizations do not inform the Government in good time whether their mandate is to be renewed, which makes forward planning difficult. Some organizations cut down their expenses, while others withdraw altogether owing to lack of safety. In 1995, the NGO aid budget was reduced by 30%. Health funding is 5 to 6 times below the neighbouring countries' level.

161. The supply of medicines is slowed down by delays on the part of the World Bank or the Deutsche Bank. Costs cannot be covered out of the national budget because the Ministry of Finance has asked the Ministry of Health to await assistance from the World Bank. Pharmaceutical production is made impossible by lack of capital.

162. In conclusion, it can be said that the technical and administrative results achieved in 1994 were better than in the preceding year. Preventive vaccination was carried out in accordance with the programme. Measures to combat infectious diseases such as dengue, diarrhoea, tuberculosis and cholera were carried out in a timely and efficient manner. Considerable advances have been achieved in terms of health care, medical examinations, consultations and treatment. The rate of hospital deaths was reduced from 3.2% in 1993 to 2.5% in 1994. International cooperation is good. The development of the system of information and administration in the sphere of health has achieved noteworthy results.

163. The following objectives are still outstanding:

- To continue strengthening the organization of services at all levels;

- To continue the implementation of 22 national programmes, in particular that relating to the health of children and mothers;

- To raise the technical and moral level of health care practitioners by developing human resources;

- To develop support services, e.g. by cooperating with the People's Republic of China in the restoration and development of pharmaceutical plants; opening three blood collection centres in the provinces; strengthening the ambulance services; introducing a new information system throughout the country by early 1995; establishing a public health institute in cooperation with the Australian International Development Assistance Bureau (AIDAB), the Asian Development Bank (ADB) and CTZ; and developing the health administration system in cooperation with WHO.

D. Social security and child care facilities and services (arts. 26 and 18)

Legal context

164. The Constitution provides as follows:

"Art. 73: The State shall take care of children and mothers. It shall establish maternity wards and shall assist mothers of large families who are without support.

"Art. 75: The State shall establish a system of social security for workers and employees."

Ministry of Planning Directives No. 1300 dated 12 July 1982, which deals with working hours, and No.291 dated 11 February 1983 deal with the policy of social security for public servants.

Implementation

165. In order to guarantee social security and social insurance, the Royal Government continued in 1994 to provide welfare for children and parents by the following means:

- providing assistance to 369 orphans whose fathers had been civil servants or members of the armed forces or the police;

- saving the lives of 70 abandoned babies;

- settling the problem of 132 vagrants and assisting 30 000 families affected by natural disasters;

- training social welfare staff by means of seminars organized both inside and outside the country;

- issuing decisions and notices relating to the dissemination and implementation of labour laws and other principles and to inspections in enterprises of various kinds;

- cooperating with international organizations in the vocational training and rehabilitation of the disabled;

- directing the implementation of a programme for the provision of food to 9 667 families in 199 villages, 47 communes, 26 districts and 14 provinces;

- digging 250 wells and 3 501 pools;

- digging 19 fish-breeding ponds of 100 sq.m each;

- organizing farmers' training courses on the construction and use of septic tanks;

- distributing seed and 6 900 harrows or use on family plots;

- implementing the family development programme whereby capital was provided to 1 039 families wishing to engage in processing, crafts or agriculture;

- distributing 2 000 pairs of draught animals to poor farmers and consumer goods such as rice, sarongs, scarves and clothing to 320 poor widows and 70 orphans;

- supplying funds and building equipment and providing training at development centres, organizing language courses and special training for public servants within the framework of women's affairs;

- training tailors, hairdressers, mat-makers and weavers so as to help parents to make a living and to improve the living conditions of children (*Government Activities, 1994*).

166. So far as health care is concerned, the Ministry of Health has also established a psychiatric unit at the Samdech Preah Sihanouk Hospital in Phnom Penh.

167. With regard to industrial safety, article 20, section 3, chapter 2 and articles 224 to 251, chapter 8 of the Labour Act of 11 August 1992 provide for measures relating to hygiene and safety of manual and non-manual workers. Articles 169 to 183, chapter 8 of the same Act deal with the safety of wage-earning minors aged below 18. These legal rules are being followed fairly closely in practice.

168. In the interests of preserving the safety and health of the population, the Royal Government introduced a draft Pharmaceutical Products Act which was adopted by the National Assembly on 9 May 1996.

169. In the field of school hygiene, doctors are examining the physical aptitude of pre-school and primary school pupils and supplying medicines to school infirmaries. With the introduction of health, physical education, personal hygiene and environmental studies in the primary education curriculum, hygiene is being practised in schools *(Health Activities Report 1994)*.

170. Within the framework of the nutrition programme, the Ministry of Health in cooperation with the Helen Keller Foundation has organized 3 to 4-day training courses for groups of 30 auditors in the provinces.

171. In cooperation with the Office of the Secretary of State for Women's Affairs and representatives of UNICEF, the Ministry of Health has participated in the training of primary school teachers and nursery administrators. A total of 93 persons, divided into three groups, attended training courses lasting two to three weeks *(Health Activities Report 1994)*.

172. With regard to care of children, the Royal Government in 1992 organized and strengthened the administration of 24 centres, including 5 in Phnom Penh, where 2 000 children are housed. The Phnom Penh centres belong to the following categories: the nursery takes abandoned orphan babies and children under 8; the Kolap I and Kolap II centres provide shelter for children over 8; the Kolap IV centre is set aside for vagrants, the aged, widows with large families, disabled persons and street children; and Koh Romduol is a centre is for the re-education of prostitutes.

173. At the end of 1994 the number of orphans and children of poor parents was very great, but only 2 041 were housed in the 20 State reception centres and 6 centres operated by NGOs. So far as their maintenance is concerned, the policy adopted by the State is in conformity with its means and with the nation's economic situation. Until July 1994 the monthly allowance per child in a State reception centre was 12 000 riels for boys and 13 000 riels for girls.

174. Orphans authorised to leave the reception centre receive the amount of 4 months' allowance as the State's contribution to setting up a first home of their own. The Royal Government has also established a further provisional centre in Phnom Penh for vagrants, including disabled persons and mothers with children, with a view to providing them with education, care and some vocational training before sending them back to their villages. According to Ministry of Social Welfare statistics for 1994, these persons numbered 130. In addition to the monthly State allowance, the children receive visits and supplementary aid in cash and in kind from national and international organizations and other donors. In 1994, assistance in the field of social welfare was received from 22 international organizations and NGOs.

175. The <u>difficulties encountered</u> are as follows:

- Most of the staff have no qualifications;
- Most Cambodian families do not practise family planning;
- The cultivable area cannot be expanded or developed because of insecurity and land mines;

- Young people coming out of orphanages have difficulty in finding employment;

- Assistance from international organizations and NGOs is limited;

- There is no policy of assistance to children of poor parents;

- Civil servants responsible for child welfare are very poorly paid;

- Funds and equipment for the children's service are lacking.

[Source: Ministry of Social Welfare.]

176. The goals to be attained are the following:

- To encourage improvement of the economic, social and cultural standards of rural populations so as to reduce the gap between well-off and poor people;

- To prepare a project for the construction of women's development centres at Kampong Cham, Battambang, Takev, Koh Kong and Pursat;

- To prepare a project for the construction of nurseries at the Office of the State Secretary for Women's Affairs and at the Kampong Speu development centre;

- To assist women in amassing the capital they need for the exercise of small handicrafts;

- To strengthen the welfare services by developing existing human resources and programmes and by taking all possible steps to obtain additional funds and food;

- To define broad principles governing the implementation of labour laws and to carry out inspections of the organizations and bodies concerned;

- To encourage good management; to assist, regulate and organize vocational training of disabled persons and families of fallen combatants

(Government Activities Report 1944).

E. Standard of living (art. 27, paras. 1 to 3)

Legal context

177. The Constitution provides in its article 52 that the State shall give priority to efforts to protect the life and well-being of citizens. Article 63 provides that the State shall administer the market and shall assist the population in attaining a decent standard of living.

Implementation

178. The war which devastated Cambodia for over two decades, in particular the destruction of property and human life which occurred between 1970 and 1975, has had a disastrous effect on the population's standard of living and especially on health. During this period the level of the health services fell below that of the neighbouring countries. The state of health of the population at large and especially of children is precarious. The average life expectancy, which between 1960 and 1965 was 45 years, fell to 35 years between 1970 and 1975. That figure is the lowest in the world. However, it has been gradually improving since 1979. Today, life expectancy is estimated at 49.7 years. The population growth rate, which probably stands at 40%, is the highest in Asia *(World Bank, November 1993)*.

Changing the life of society

179. An adult's daily food intake corresponding to an energy requirement of 2 600 calories must include 55 g of protein, 400 to 500 mg of calcium, 9 mg (men) or 28 mg (women) of iron, 750 mg of vitamin A and 30 mg of vitamin C. According to research conducted in different parts of the country, 4 to 8% of our pre-school age children are suffering from serious food deficiencies. More than 50% of children in rural areas are breast-fed until the age of 2. In 76.4% of cases, breast-feeding has to be abandoned owing to the mother's loss of milk. As many as 56.7% of children continue to be breast-fed beyond the age of 2 (*UNICEF, 1994*).

180. In 1993, new-born babies weighing 2.50 kg accounted for 18% of all births. This rate corresponds approximately to that of 1988, when it was 17% (*Ministry of Health, 1989*).

181. The major problem that arises in connection with malnutrition among women and children in Cambodia is the lack of food rich in protein, vitamin A, iron and iodine (*Ministry of Health, 1994*).

182. The large proportion of babies with a low birth-weight testifies to the mothers' state of malnutrition due to unwarranted under-eating, consumption of foods which ought to be avoided during pregnancy, heavy work, stomach and intestinal ailments and malaria. In 1988, about 18% of Cambodian children below 5 were suffering from medium-level and 3% from high-level food deficiency. Today, the rate of chronic food deficiency in children under 5 is 22% in Phnom Penh and 32% elsewhere in the country.

183. Vitamin A deficiency causes serophthalmia, which is widespread among children under 6 in Takeo, Ratanakiri, Koh Kong and Pursat.

184. Goitre due to iodine deficiency is very widespread, especially among women.

185. According to research carried out in Phnom Penh, the annual income per family member is 154 dollars, while living costs amount to 173 dollars, including 17.50 dollars spent on maintaining the health of children (*UNICEF Committee on Social and Economic Statistics, 1993-94*); 24% of households in

Phnom Penh and 40% in rural areas are considered to be living below the poverty threshold (Source: UNICEF).

186. From 1992 to 1994 State per capita expenditure in the sphere of health amounted to $0.60 in 1992, $0.80 in 1993 and $2.20 in 1994, while in the neighbouring countries they were $4 in Laos, $5.20 in Viet Nam and $15.20 in Thailand. This proves that the Cambodian population's health level is far below that of the neighbouring countries (*1994, Health Activities Report*).

187. From the foregoing it can be concluded that the standard of living of the population in general and that of Cambodian children in particular is very low in comparison with that of other countries in the region. The causes are many, but the most important are the consequences of a war lasting two decades, which, during the reconstruction period, were compounded by natural disasters (floods and drought).

188. A decent standard of living conducive to the physical, mental, spiritual, moral and social development of children will be attained in the near future thanks to the reunification and consolidation of all national forces and to material and technical assistance from the international community.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (Art. 28)

Legal context

189. The Constitution provides as follows:

> "Art. 46: The State and society shall provide opportunities for women, especially those without support, to exercise a trade, receive health care and send their children to school (…)
>
> "Art. 48: The State shall guarantee and protect the rights of children as defined in the Convention on the Rights of the Child, and in particular the right to life and to education.
>
> "Art. 66: The State shall establish throughout the country a comprehensive and unified system of education which shall guarantee the principles of freedom of and equal access to education, so that all citizens may enjoy equal opportunities in life.
>
> "Art. 68: The State shall provide all citizens with primary and secondary education in State schools free of charge. Citizens shall receive education for at least 9 years."

190. State Council Decree-Law No.30 dated 20 November 1986 relating to general education provides as follows:

> "Chapter 2, art. 3: Primary education establishments shall accept children from the age of 6 and shall encourage them to complete their schooling.

"Chapter 2, art. 4: Level 1 secondary education establishments shall provide training to students so that they may exercise a trade, be employable in industry, or be capable of continuing their studies at a Level 2 educational establishment, a special secondary school or a vocational training establishment.

"Chapter 2, art. 5: Level 2 secondary education establishments shall provide training to students who have completed their Level 1 secondary studies so that they may acquire the knowledge and capability enabling them to continue their studies in the scientific and technical fields at higher educational establishments in accordance with the State Plan."

191. State Council Decision No.42 of 20 December 1991 defines the conditions for the award of grants to pupils and students who continue their studies in higher and technical educational establishments. Grants are awarded to well-disciplined and hard-working students for the duration of their studies. The following are eligible for a grant:

(a) Children of combatants, executives, operatives or workers who fell in the cause of the fatherland;

(b) The best pupils and students;

(c) Children of combatants;

(d) Orphans who have lost both their parents;

(e) Children belonging to ethnic minorities in remote areas;

(f) Children of poor agricultural workers;

(g) Children of executives, non-manual or manual workers in State service who have genuine difficulties in making ends meet.

192. Council of Ministers Decision No.181 of 20 December 1997 on the rehabilitation, vocational training and employment of disabled persons (art.8) makes it incumbent upon general education and vocational training schools to accept disabled students in accordance with their possibilities and capacity. Several international organizations are at present cooperating with the Royal Government in establishing schools for disabled children. The Krousa Thmey organization has opened a school for blind children; a training centre for disabled children has been opened at Kien Khleang; and NGOs dealing with vagrant children have drawn up a programme of education, literacy and hygiene instruction and vocational training for vagrant children who have manifested the wish to change their way of life.

B. Pre-school establishments and schools of general education

Implementation, shortcomings and goals

193. In the school year 1993-1994 the number of children attending pre-school establishments rose over the previous year's level. In all, 7.16% of children

aged 3 to 5 and 15% of 5-year olds are attending pre-school establishments (*Educational activities evaluation report, 1993-1994*).

194. This year, the number of three to five-year olds admitted to pre-school establishments has risen. The following shortcomings have, however, been observed:

- The rate of enrolment in pre-school establishments is still low;
- Children's attendance is irregular owing to the parents' poor economic situation, especially in remote areas;
- The teachers' pedagogical skills are limited;
- Parents and the community at large have difficulty in understanding the importance of pre-school education as the basis for the children's development;
- The available premises and the number of teachers are inadequate;
- Books and teaching aids are in short supply;
- There is no system of communication between the schools and the community, especially parents, to encourage them to send their children to pre-school establishments;
- There is no system for recording the numbers of children attending pre-school establishments.

195. In order to resolve these problems, the Ministry of Education, Youth and Sports has adopted the following goals:

- In cooperation with local authorities, to carry out a census of children under 6;
- To improve the quality of pre-school education so that children will be prepared for primary school entrance by organizing retraining courses for pre-school teachers; in this respect, the Ministry is counting upon the assistance of international organizations and NGOs;
- To disseminate information to the public stressing the importance of pre-school education;
- To strengthen contacts between the schools and the community, especially parents and guardians, with a view to encouraging them to send their children to school;
- To improve the pre-school education curriculum so as to bring it into line with international standards; in this respect, the Ministry will be guided by the experience of other countries, especially those in the region;

- To encourage teachers to produce teaching aids using available resources;

- To encourage the opening of private pre-school establishments;

- To promote competition between public and private pre-school establishments;

- To strengthen cooperation with international organizations and NGOs in raising the level of the pre-school education system.

196. General education in Cambodia is, in principle, free of charge and available to all. Schools accept all pupils of school age without distinction as to nationality, sex or religious belief. During the school year 1993-1994, 83% of children over 6, 44.83% of whom were girls, attended school. Secondary education establishments at levels 1 and 2 were attended by a total of 285 779 students. (*Educational Activities Recapitulation and Evaluation Report, 1993-1994*).

197. Many organizations, in particular UNICEF, UNESCO, the Asian Development Bank (ADB) and Redd Barna, provided financial and technical aid and contributed towards improving the level and quality of education and the restructuring of the general education system. UNICEF and Redd Barna helped in constructing, reconstructing and equipping school buildings. ADB provided financial and technical aid, particularly in connection with secondary education. UNICEF, UNESCO and ADB are providing financial and technical aid to the reform of the curriculum and the production of textbooks so that these may be in conformity with international standards. According to the project, the reform of the curriculum and the preparation of textbooks must be completed by the end of 1995.

198. Despite the Royal Government's efforts to make up lost time and to reach the level of more advanced countries, especially those in the region, and notwithstanding the very extensive financial and technical assistance received from other countries, international organizations and NGOs, general education in Cambodia is still beset by many difficulties, including the following:

- The education budget for 1994 is only one-twelfth of the national budget. The lack of funds is seriously affecting the quality of teaching. This budget is intended for the payment of salaries of 80 000 teachers. Expenditure on the construction of school buildings is derisory. (*Educational Activities Recapitulation and Evaluation Report, 1993-1994*);

- The shortfall of over 15 000 classrooms is making it difficult to provide full-time schooling and is obliging head teachers to accept too many pupils. In some schools the teacher/students ratio is 1/80;

- Textbooks and teaching aids are in short supply and the number of books for reading is limited;

- Teachers have a very low standard of living. For this reason, it is impossible to fight corruption. Moreover, some teachers are obliged

to exercise a secondary activity (e.g. as motorcycle taxi drivers or as farmers) in order to feed their families. They therefore neglect their principal duties and their pupils achieve very poor results;

- School attendance is not regular across the country. In the towns, the school attendance rate reaches 95%, whereas in remote and mountainous areas it is only 40%. As for the children of ethnic minorities living in the north-eastern part of the country, their school attendance rate is only 5%;

- Although the school drop-out rate fell from 5% in 1992-1993 to 1% in 1993-1994, reports from some parts of the country and especially from the unsafe areas are alarming in this respect (*Educational Activities Recapitulation and Evaluation Report, 1993-1994*). In 1992-1993 it was found that 40% of first-year students and 15% of fifth-year students had dropped out of their class and had to do the year again.

199. Research has shown that each family spends at least 123 000 riels a year on each child receiving primary education (contribution to the school 48%, purchase of books and exercise books 8%, extra tuition 21.2%, miscellaneous costs 4.9%) (*NGO report*).

C. Informal education

200. Believing illiteracy to be a major obstacle to economic and intellectual progress, and wishing to continue the literacy teaching policy of Sangkum Reastr Niyum, the Royal Government is determined to do everything in its power to encourage adult education movements. The development of informal education also helps to meet the goal of providing education for all and of giving a second chance to school drop-outs or to those who, for financial reasons, cannot continue their studies within the general education system. Up to the present, 2 832 persons, including 971 women, have attended literacy classes in 109 classrooms. Of the 1 034 persons who have achieved literacy, 971 are women.

201. The supplementary (adult) education schools have admitted 12 812 students, including 1 466 for secondary education at Level 1 and 11 346 at Level 2. (*Educational Activities Recapitulation and Evaluation Report, 1993-1994*). Generally speaking, illiteracy is declining in those parts of the country which have access to assistance from international organizations and NGOs. Elsewhere, the problem remains unresolved. Moreover, adult education is being slowed down by lack of funds to pay the teachers; the curricula and textbooks no longer correspond to the needs.

202. The Royal Government has therefore adopted the following goals:

- To compile a new register of illiterate persons;

- To set up a National Committee on Education for All;

- To convert existing supplementary education schools into centres for the development of informal education;

- To hold a national seminar on illiteracy;

- To prepare a programme for teaching literacy to persons exercising a trade;

- To prepare training documents in accordance with the "education for all" programme of the Asia/Pacific region for the use of teaching staff at the development centres;

- To maintain cooperation with the Office of the Secretary of State for Women's Affairs with a view to developing the movement for women's literacy;

- To maintain cooperation with international organizations and NGOs with a view to developing informal education.

D. The goals of education (art. 29)

Legal context

203. The Constitution provides as follows:

"Art. 47: Parents shall have the duty to bring up and educate their children to become good citizens. Children shall have the duty to feed and maintain their aged parents in accordance with Cambodian custom.

"Art. 48, para. 2: The State shall protect children from all work that may be damaging to their education and studies, their health or their well-being.

"Art. 67: The State shall adopt modern educational principles and a modern curriculum including technology and foreign languages.

"Art. 59: The State shall protect the environment and ensure rational use of natural resources."

All the articles in Chapter III of the Constitution deal with the rights and obligations of Cambodian citizens.

204. Ministry of Education Letter No. 1621 dated 21 October 1992 deals with questions relating to the teaching of human rights, the crime of genocide, the abolition of all acts injurious to women, the rules of propriety, the highway code, health and nutrition. Letter No. 21 E.Relex of 12 October 1993 deals with teaching human rights in primary and secondary schools, upgrading the skills of teachers, and publishing works on human rights subjects.

Implementation, shortcomings and goals

205. The Royal Government's main goal is to ensure that all citizens of both sexes acquire a good level of knowledge and independence in the exercise of their trades and to introduce modern technology into the national curriculum. To this end the Royal Government has established a research institute within the Ministry of Education to study all possibilities of development in the field of

education and social and natural sciences. This institute, in cooperation with UNICEF, UNESCO and various NGOs, has prepared new curricula and new textbooks with the object of improving the quality and efficacy of the education system.

206. The national curriculum was modified in 1985 in order to meet students' needs and the demands of society. This change took place within the context of the reform of the schools system undertaken in 1979 whereby the duration of schooling was extended from 10 to 11 years. The new curriculum pursued the following goals:

- To provide the country with rapidly developing human resources;
- To ensure that citizens' rights are understood by the population;
- To equip everyone with the knowledge necessary for life in society;
- To provide elementary education to primary school pupils.

207. Despite the reform, this new curriculum has many shortcomings which must be rectified, such as lack of consistency and continuity between its various parts. Between 1991 and 1995 the Ministry of Education, Youth and Sports carefully studied ways of improving the curriculum and teacher training. Steps designed to enhance the quality of teaching have been taken, but many difficulties are still being encountered, such as:

- Lack of funds for research into ways of developing the education system so as to bring it up to the level of other countries in the region;
- Lack of research specialists;
- Lack of documents and equipment for carrying out the necessary research.

208. In order to attain its goals, the Ministry of Education, Youth and Sports in cooperation with UNICEF has established a commission to inquire into the capabilities of teachers and another to look into the mathematics and languages attainments of primary and secondary school pupils. UNESCO and ADB are also participating in the curriculum reform process. The new curriculum includes human rights, the environment, food, the highway code, ethics and civics with the object of enabling students to achieve a better understanding of their place and role and to make themselves useful in society. The Ministry recently decided also to include the question of AIDS.

E. Leisure and recreational and cultural activities (art.31)

Legal context

209. The Constitution provides as follows:

"Art. 35: Citizens of either sex shall have the right to participate actively in the political, economic, social and cultural life of the nation.

"Art. 65: (…) The State shall provide physical and sports training which contributes to the well-being of the nation.

"Art. 69: The State shall protect and develop the national culture."

Implementation

210. Because of lack of funds and equipment, children's leisure and cultural activities cannot be organised properly in all parts of the country today despite the efforts of the Ministry's regional youth and sports commissions. The only physical exercises and sports being practised in schools are those that appear in the timetable. Sports competitions between different classes or schools are sometimes held, but such activities are few and far between.

211. In principle, every class in every school must have a student committee to defend its members' interests. But these committees, particularly in primary schools, are not independent because their activities are directed by the school.

212. Some schools, especially in Phnom Penh, occasionally organize dance shows and other artistic performances. But such programmes are not to be found everywhere in the country despite the existence of the "children's tribune" set up by the national information system. In 1994, a travelling exhibition organized by the "Krousar Thmey" NGO visited 14 provinces and was attended by many children.

213. Cambodia is a country with many historic sites and ancient monuments which are the soul and treasure of the nation's culture. But most Cambodian citizens, in particular children, do not know where they are located. Thanks to the new textbooks and to study tours being organized by some schools, schoolchildren can become better acquainted with their national culture. But the education budget is very small (one-twelfth of the national budget) and the necessary infrastructure for leisure activities cannot be built up.

VIII. SPECIAL PROTECTION MEASURES

A. Children in emergency situations

1. Refugee children (art. 22)

Legal context

214. In 1992, the Royal Government ratified the Convention relating to the Status of Refugees and its Protocol, but no law relating to refugees has as yet been enacted.

Implementation

215. In 1994, 75 refugees including 6 children under 15 were authorized to take up residence in Cambodia at the request of UNHCR.

2. Children affected by armed conflicts (art.38)

Legal context

216. The Constitution provides as follows:

> "Art. 48: The State shall guarantee and protect the rights of children set forth in the Convention on the Rights of the Child, in particular, the right to life, education and protection in the event of armed conflict."

Cambodia has acceded to the four Geneva Conventions.

217. The memorandum of the tripartite agreement between the Royal Government of Thailand, UNHCR and the Supreme National Council of Cambodia relating to the repatriation of refugees and displaced persons was signed at Phnom Penh on 21 November 1991.

218. The Compulsory Military Service Act provides that all Cambodian citizens of the male sex aged between 18 and 30 years, without distinction as to religious belief, national origin or social status, must serve in the armed forces in accordance with the provisions of the law. Children aged below 18 years are not accepted for military service.

Implementation

(a) Repatriated children

219. In accordance with the Paris Peace Agreement and with the assistance of UNHCR, the International Committee of the Red Cross (ICRC) and other organizations, about 370 000 Cambodians, including 180 000 children, have been repatriated. Most of theses children had been separated from their families; 300 were orphans without support. These children are being housed by the Ministry of Social Welfare in cooperation with NGOs at the Centre for Assistance to Children, where they receive vocational training that enables them to earn their own living.

220. ICRC has made great efforts to trace scattered families. 3 600 families were located between 1989 and 1992. The search continues. Children who have parents or guardians have been sent back to their native villages, where they receive accommodation and land and enjoy the same right to education as other children.

(b) Orphans and abandoned children

221. As a result of two decades of war, 13% of our children have been orphaned; half of these have lost both their parents. In this document the term "orphan" denotes children who have lost one parent or have been abandoned. Most of these children live in the community. Some are living with well-off families and are being maintained properly. But others are treated more harshly, while still others are not regarded as family members and are forced to engage in all kinds of activities such as domestic work, farm labour or begging.

222. In face of problems created by economic and social factors and insecurity, the State has provided shelter to 5 740 children in 29 reception centres (according to the Ministry of Social Affairs, Labour and Ex-Servicemen, 1981). At the same time, the State has appealed to various organizations to help children living outside these centres. Those living in the centres have received schooling and vocational training. In specific terms, 924 are employed in the public service, 55 have found work in the private sector and 2 338 have rejoined their families.

223. At present there are 2 041 children living in State reception centres and 668 in centres operated by NGOs. Although the numbers of children in reception centres are declining, those of orphans and abandoned children are steadily growing owing to insecurity and economic problems. According to UNICEF estimates, there are in the whole of Cambodia between 5 000 and 10 000 vagrant children who have been abandoned by their parer .s.

224. Most of the vagrant children in Phnom Penh have come from the provinces, either with their families or with their brothers and sisters. Some have run away from home because of poverty or family violence. Their life is perilous and wretched. Faced with this situation, the State and NGOs are providing them with shelter and education in their respective reception centres. As for whole families of vagrants, the State has set up an inter-ministerial centre which is cooperating with international organizations and NGOs in endeavouring to resolve their problems and stabilize their lives.

(c) Child combatants

225. Children below 18 years are not eligible for military service. But there are cases of children who lie about their age in order to be able to join the army for financial reasons (cf. UNHCR report). Children are particularly numerous in the ranks of "Democratic Kampuchea", the conscription of young children being a common practice with the Khmer Rouge.

(d) Child war refugees

226. Approximately 50 000 persons are leaving their villages every month to escape the dangers of war. Children obliged to leave their homes and schools are provided with bedding and food.

B. Children in conflict with the law

1. Administration of justice for minors *(art.40)*

Legal context

227. The Constitution provides as follows:

"Art. 38: The law shall ensure the inviolability of the person. It shall protect the life, honour and dignity of citizens.

"Art. 39: Cambodian citizens shall have the right to bring complaints and to sue for reparation in the event of prejudice suffered as a result of

illegal actions on the part of State organs, welfare organizations or their officials."

228. Article 16 of the Criminal Procedure Act of 1993 provides that the presiding judge must appoint a lawyer ex officio to defend the interests of minors without means of support who are the victims of an offence or who are accused of committing an offence. Children have the same rights as adults before the law. A detailed enumeration of these rights will be found in our report under the International Covenant on Civil and Political Rights.

Implementation

229. At present there is no special law on juvenile delinquents. The Transitional Criminal Law of the United Nations Transitional Authority in Cambodia (UNTAC) and the Criminal Procedure Act of 1993 continue to be applied. The Ministry of Justice is preparing a draft act on juvenile delinquency and on the establishment of a juvenile court. Children found guilty of theft and other reprehensible acts are released by the competent authorities after undergoing re-education.

2. Children deprived of their liberty (art. 37)

Legal context

230. The Constitution provides as follows:

" (...) All forms of coercion, torture and treatment that aggravates the penalty imposed on a convicted prisoner or the detention conditions of an accused shall be strictly prohibited. The perpetrator, co-perpetrator and accomplice shall be punished by law."

231. The Transitional Criminal Law provides as follows:

"Art. 14: (...) Minors below the age of 13 years may not be held in pre-trial detention. Minors aged between 13 and 18 years may not be held in pre-trial detention for longer than one month. This time limit shall be doubled if the minor is charged with a crime."

232. Subsidiary Decree No.17 of the Council of Ministers defines the role and powers of the rehabilitation centre for juvenile delinquents. The purpose of this centre is to house and re-educate convicted children between the ages of 7 and 17. The centre is placed under the control of the Minister for the Rehabilitation of Juveniles.

Implementation

233. With the object of separating juvenile delinquents from adults in accordance with United Nations principles on the treatment of prisoners, and in order to educate them and provide them with vocational training before returning them to their families, the State has set up a rehabilitation centre for juvenile delinquents. The Centre was opened on 28 July 1995. By 20 February 1995 it had received a total of 147 children (including one girl), and 58 of these children had already left. Five had been convicted of crimes and the rest had

been picked up by the police and taken to the Centre. The youngest children were 10 years old. The majority were thieves and some were prostitutes. (Cf. the report of the Centre dated 20 February 1996.) The Centre can accommodate up to 100 persons. A doctor and an official of the Ministry of Justice also work there. Every so often a commission examines each file and decides whether the child should be returned to his/her family or should continue being educated at the Centre.

3. Sentencing of minors (art. 37)

Legal context

234. The Constitution provides as follows:

"Art. 32. The death penalty shall be abolished.

"Art. 38 (…) All forms of coercion, torture or treatment that aggravates the penalty imposed on a convicted prisoner or the detention conditions of an accused shall be strictly prohibited. The perpetrator, co-perpetrator and accomplice shall be punished by law."

The Transitional Criminal Law provides as follows:

"Art. 68: Mitigating circumstances and statutory excuse on the ground of age:

1. In reducing the penalties provided by this Law to less than the minimum indicated, judges shall take account of mitigating circumstances, and particularly of the convicted person's youth; (…)

2. In the case of an accused aged below 18 years, the penalties provided in the foregoing articles shall be halved, without prejudice to any more favourable provisions that may be contained in standards laid down by an existing administrative structure."

Implementation

235. According to article 32 of the Constitution, the death penalty is abolished, but there is no law that prohibits imprisonment in perpetuity.

C. Children in a situation of exploitation

1. Economic exploitation, including child labour (art.32)

Legal context

236. The Constitution provides as follows:

"Art. 48, para. 2: The State shall protect children from all forms of work liable to interfere with their upbringing or studies or to harm their health or well-being."

The Labour Act has many articles dealing with child labour (arts. 12, 13, 46 to 55, 60, 68, 100 to 103, 147, 166 to 183, 196, 215, 218 to 222, 273 and 274). In particular, the following may be cited:

> "Art. 170: Children aged below 18 years and women of any age may not be employed in mines or quarries.
>
> "Art. 171: Children aged below 18 years may not be employed at night in passenger transport enterprises (…).
>
> "Art. 173: A child of either sex aged below 16 years may not be hired as a wage or salary earner, foreman or apprentice in any enterprise other than an establishment employing all members of the family, where the child is placed under the authority of the parents or guardians."

Implementation

237. The Kingdom of Cambodia is no different from certain other developing countries or from those in process of transition to a market economy. Owing to the insecurity which reigns in remote parts of the country, citizens are often obliged to change their domicile. They try to find work, principally in the towns. But parents generally have little or no understanding of the benefits of study; the Government's education policies are not yet being universally applied at all levels in such a way as to meet market requirements, and laws are not always implemented effectively. For all these reasons, many young children, instead of going to school, participate in economic activity either at family level or in the context of society.

238. Most Cambodians are poor. Children have to work in order to help the family. Children of poor families, especially where the mother is a widow, have to look for ways of increasing the family income - by working in the fields, say, or by hiring themselves out as porters. Some children, having dropped out of school, become beggars or scavengers picking over the rubbish dumps. According to investigations conducted by ADB, UNDP and the National Institute of the Ministry of Planning, only 2.4% of children over 10 years old are not obliged to work (*UNICEF report analysing the situation of children and women*).

239. Parents and guardians who have not had any schooling themselves and are indifferent in face of this situation, as well as the children themselves, are doing nothing to prevent and resolve the problem of child labour. In other words, responsibility in this vital matter rests with Government institutions and in particular with the Ministry of Social Affairs, Labour and Ex-Servicemen, whose possibilities of action are limited owing to the inadequacy of available resources and to the serious shortage of basic information, senior personnel, trained staff, budgetary funds and equipment.

240. Thanks to great efforts made to coordinate activities in cooperation with individuals, associations, NGOs and the communities group, some of the above-mentioned problems are being resolved. But that is not enough, for awareness and information on child labour continue to be lacking.

241. Recognizing the great danger which child labour represents, the Royal Government and its representative, the Ministry of Social Affairs, Labour and

Ex-Servicemen, has adopted the protection of the rights of the child and the elimination of child labour as a priority issue. Accordingly, the Royal Government has invited the International Labour Organisation to establish a section on child labour attached to the Cabinet of the Secretary of State with a view to strengthening the role of the Ministry of Social Affairs, Labour and Ex-Servicemen in the struggle against child labour in Cambodia.

242. In January 1996 this section responsible for the elimination of child labour began to implement its pilot programmes. Within its mandate, which is to conduct activities in connection with strengthening the role of the Ministry of Social Affairs, Labour and Ex-Servicemen, the Government's principal partner in the elimination of child labour, the section defined its three essential activities as follows:

- To raise the level of information and competence within the Ministry in connection with the problem of child labour;

- To enhance the capacity of the principal partners in the international programme relating to the elimination of child labour, and in particular of local NGOs, in developing, managing and evaluating the programme of action on child labour;

- To develop plans of action designed to remedy the problem of child labour in Cambodia.

243. Thanks to activities undertaken towards the elimination of child labour in Cambodia since January 1996, all the principal partners have greatly improved their understanding of the problem and their competence in dealing with it.

244. Despite the continuing lack of resources needed to resolve the problem, the situation of children in Cambodia will surely improve in the future thanks to improved coordination of activities of the Ministry of Social Affairs, Labour and Ex-Servicemen, ILO and other organizations and to cooperation between them.

2. Use of drugs (art.33)

Legal context

245. Article 39 of the Transitional Criminal Law imposes a penalty of 5 to 15 years' imprisonment for the production, transport, import, export, keeping, selling, transmission, acquisition or use of toxins, narcotic drugs and psychotropic substances as listed in United Nations conventions. Article 65 provides a penalty of one month's to one year's imprisonment for those who use toxins, narcotic drugs or psychotropic substances for their personal consumption.

Implementation

246. In Cambodia, the use of drugs such as Indian hemp or opium is not widespread. The State has taken steps to prevent the use and smuggling of drugs. What is striking in Cambodia is the excessive consumption and importation of foreign cigarettes. Some children, especially vagrants and those living in rural areas, are smokers.

3. Sexual exploitation and violence (art. 34)

Legal context

247. The Constitution in its article 46 provides that "trafficking in human beings, the exploitation of prostitution and the use of obscenities which infringe the dignity of women shall be prohibited". The Transitional Criminal Law in its article 42 prohibits and penalizes offences against morality and, in paragraph 3 of that article, provides that "anyone who hires or subverts a minor for purposes of prostitution or who exploits the prostitution of a minor, even with the latter's consent, shall be punished by two to six years' imprisonment".

248. The Act of 16 January 1996 on the punishment of kidnapping, trafficking in human beings and the exploitation of human beings penalizes all persons involved in kidnapping for the purpose of trafficking, sale of human beings or prostitution, all procurers and all persons who engage in debauchery. The penalties are more severe if the victim is a minor.

Implementation

249. According to criminal police reports, children disappear every month and only two were found in 1994.

250. According to an inquiry carried out in Phnom Penh by a women's development organization in 1994, 35% out of 399 prostitutes were aged between 15 and 18 and 43% were being forced to prostitute themselves by their parents who were in debt or were the victims of fraudulent acts (*UNICEF analysis report, 1994*).

251. According to information supplied by the police, the United Nations Centre for Human Rights and various human rights organizations, trafficking in children is taking place in the direction of the neighbouring countries (*UNICEF report, 1994*). There also exists another form of prostitution which consists in fraudulently luring or kidnapping children, especially boys, and then forcing them to have sexual relations with clients.

252. In order to help child prostitutes and to stop others from following them on that evil path, the Royal Government in cooperation with the NGOs has instituted a programme of assistance to vagrants which consists in housing them in reception centres where they are provided with an education. At the same time, certain organizations have helped many children to leave the brothels and come to live in a reception centre. A number of NGOs have jointly established the ECPAT (End Child Prostitution in Asian Tourism) programme, which denounces and combats child prostitution taking place under cover of tourism or in other forms.

D. Children belonging to a minority or to an indigenous group (art. 30)

Legal context

253. The Constitution provides as follows:

"Art.1: (…) All Cambodian citizens shall be equal before the law and shall enjoy the same rights and freedoms and have the same duties, without distinction on grounds of race, colour, sex, religious belief, political opinions, national origin, or social, property or other status."

Implementation

254. Cambodia has 16 national minorities which total 75 000 persons speaking different languages. These minorities enjoy the rights and freedoms set forth in article 31 of the Constitution. As the ethnic minorities live in remote mountainous areas whose geographical conditions are not suitable for rice growing and where communications are poor and safety is not assured, their development is very backward, their life wretched and their education inadequate. Their superstitions run very deep and prevent them from acquiring modern scientific forms of knowledge. If they fall ill, they mistrust pharmaceutical products.

255. Not all the children go to school and the level of instruction is very low. Their health is deplorable. They rarely receive assistance. The Royal Government is currently preparing a plan for the all-round development of ethnic minorities living in mountainous areas.

IX. CONCLUSION

256. The Royal Government's policies and its implementation of the Convention on the Rights of the Child reflect its recognition of human rights in general and of the rights of the child in particular. But these rights are not new to Cambodia or to Cambodian citizens. Custom has taught our citizens to practise mutual respect, reciprocal aid and, in particular, tolerance of the weakest members of society - women, children and the aged. While Cambodia's ratification of various international conventions dates only from 1992, helping those in trouble, especially children at risk, has long been a common practice in our country.

257. Schools, hospitals and other public services have opened their doors wide to meet the population's needs free of charge. But it has not been possible to open such establishments in all parts of the country because of the war which has been going on for more than twenty years. The national infrastructures - schools, hospitals, roads, etc. - have been heavily damaged. This destruction stands in the way of teaching citizens, in particular women and children, to know their rights. Furthermore, implementing and monitoring human rights is also made difficult by the fact that during the past two decades Cambodians have been cut off from spiritual and moral progress. Many were born at a time when the country was going through its worst periods of crisis. Thus, the absence of relations with the outside world under the Khmer Rouge regime exercised a considerable influence on respect for human rights, particularly those of the child.

258. Despite harassment by the Khmer Rouge in certain areas, the present Royal Government, supported by the people and recognized by the world at large, is determined to ensure effective implementation and respect of human rights. But this also depends on technical and financial assistance from the international

community. A developed and prosperous economy is a factor in strengthening morality, mutual assistance and mutual respect, in particular respect of human rights without distinction on the ground of age, sex or nationality.

ANNEXES*

1. Labour Code, 1992

2. Marriage and Family Act, 1989

3. Provisions relating to the criminal judiciary system and to the criminal procedure applicable in Cambodia during the transitional period (Transitional Criminal Law)

4. Constitution of the Kingdom of Cambodia, 1993

5. Subsidiary Decree No.17 of 18 April 1994 relating to the role, tasks and structure of the re-education centre for minors

6. Subsidiary Decree No.83 of 20 December 1995 on the establishment of the Cambodian National Council for Children

7. Ministry of the Interior Directive No.474 of 2 July 1994 on the establishment of associations

8. Proclamation bringing into force Council of Ministers Decision No.181 on principles governing the rehabilitation, vocational training and employment of disabled persons

9. Council of State Decree-Law No.30 of 20 February 1986 on the system of general education

10. Criminal Procedure Act, 1993

11. Act of 16 January 1996 on kidnapping, trafficking in and exploitation of human beings.

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* May be consulted, if required, in the files of the secretariat of the Office of the United Nations High Commissioner for Human Rights.